



# Local Boundary Commission

## Statement of Decision

### Members

*Kevin Waring*  
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At-Large

*Kathleen Wasserman*  
Vice-Chairperson  
First Judicial District

*Member*  
Second Judicial  
District

*Allan Tesche*  
Member  
Third Judicial District

*Ardith Lynch*  
Member  
Fourth Judicial  
District



### IN THE MATTER OF THE PROPOSAL TO INCORPORATE THE HOME RULE CITY OF TALKEETNA

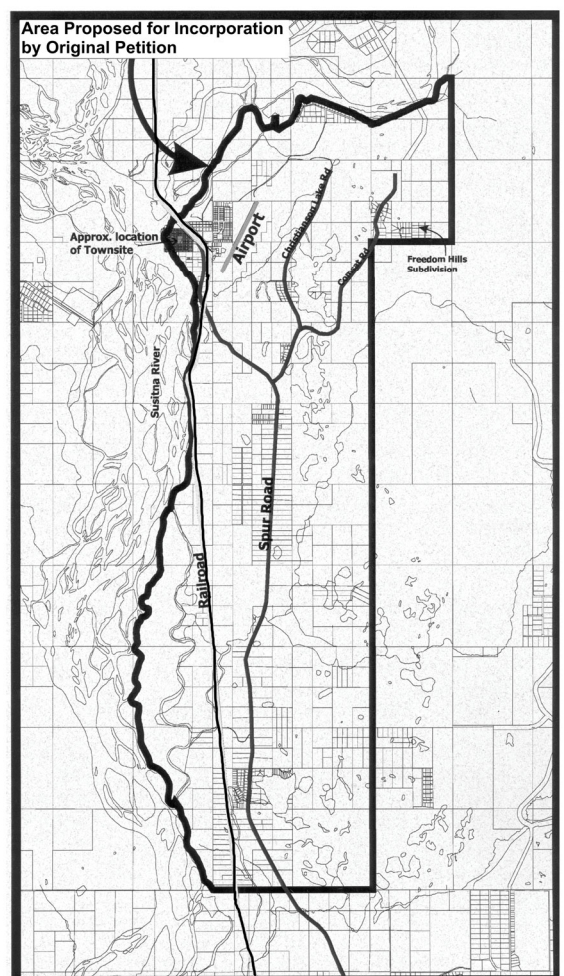
## SECTION I BACKGROUND AND DESCRIPTION OF AREA

On March 25, 1998, 52 registered voters in Talkeetna, a community of 758 residents in the Matanuska-Susitna Borough (MSB), filed a petition with the former Department of Community and Regional Affairs<sup>1</sup> to incorporate a home rule city with boundaries encompassing 23 square miles (hereinafter “Petition”). The Petitioners proposed incorporation ballot propositions authorizing the City to levy a 3.5 mill real property tax, a 4% seasonal sales tax, and a 15% “bed tax” for facilities with more than 50 beds. The Petitioners further requested that the Commission condition incorporation upon voter approval of the seasonal sales tax.

## SECTION II SUMMARY OF PROCEEDINGS

On April 17, 1998, DCED completed its technical review of the Petition in accordance with AS 29.05.070, and accepted the Petition for filing.

**Notice of Filing Given.** Pursuant to 3 AAC 110.640, the Chairman of the Local Boundary Commission (LBC) established June 19, 1998, at 5:00 p.m., as the deadline for filing responsive briefs and comments regarding the original Petition. Public notice of the filing of the Petition was given in



AREA SOUGHT FOR INCORPORATION BY  
ORIGINAL PETITION

<sup>1</sup> On July 1, 1999, the former Department of Community and Regional Affairs was merged with the former Department of Commerce and Economic Development, creating the Department of Community and Economic Development (DCED). For the sake of consistency, references to the agency use the post-merger title. Similarly, subsequent to the departmental merger, the regulations regarding city incorporation standards and procedures contained in the Alaska Administrative Code were renumbered. For example, the former 19 AAC 10.640(a) is now 3 AAC 110.640(a). Again, for the sake of consistency, references to the regulations use post-merger numbering.

accordance with the requirements of 3 AAC 110.450. Specifically, notice was given as follows:

On April 23, 1998, notice of the filing of the Petition was mailed by DCED to 47 potentially interested agencies and individuals. Additionally, notice was prominently posted in 8.5-inch by 11-inch format at the following locations in the area proposed for city incorporation:

- Post Office bulletin board;
- Nagley's Store bulletin board;
- the Latitude 62 bulletin board
- Talkeetna Library.

The notice remained posted at the locations noted for at least 14 consecutive days from the date of posting.

On April 24, 1998, May 1, 1998, and May 8, 1998, notice was published in *The Frontiersman* as a display advertisement 2-columns wide and six inches long.

On May 1, 1998, notice of the filing was mailed or hand delivered by the Petitioners to ten potentially interested individuals and organizations designated by DCED.

**Petition Served on Interested Parties.** On May 4, 1998, the Petitioners served a copy of the original Petition on the MSB in accordance with 3 AAC 110.640(a).

**Petition Made Available for Public Review.** Pursuant to 3 AAC 110.640(b), a copy of the complete original Petition documents was made available for public review at the Talkeetna Library beginning April 30, 1998.

**First DCED Informational Meeting.** AS 29.05.080 and 3 AAC 110.520 require DCED to conduct at least one public informational meeting in the territory proposed for incorporation. DCED staff conducted a public informational meeting on the incorporation proposal at the Talkeetna Elementary School gymnasium on Wednesday, May 27, 1998.

Approximately 38 individuals, including the Petitioners' Representatives, attended the May 27, 1998 informational meeting. The meeting was broadcast live on local radio station KTNA and rebroadcast the following week.

**Timely Comments Filed.** Written comments concerning the March 25, 1998 Petition were submitted by the following parties prior to the June 19, 1998 deadline for submission of such comments:

- Art Wettannen, Talkeetna resident (a 1-page letter in opposition to the Petition);
- Murray Nash, Talkeetna resident (a 1-page letter in opposition to the Petition);
- David Lee, Talkeetna resident (a 1-page letter in opposition to the Petition);
- R. Dennis Brandon, Cook Inlet Region, Inc., (a 1-page letter in opposition to the Petition);
- Ellen Wolf, representing Concerned Citizens of Talkeetna, (a 2-page letter in support of the Petition);
- Mark J. Dolecki, Talkeetna Spur road resident, (a 1-page letter in opposition to the Petition);
- R.A. Long, a Talkeetna resident and property owner (a 1-page letter in opposition to the Petition);

- Two similar informal petitions opposing incorporation of the City of Talkeetna signed by 253 individuals purporting to reside in the greater Talkeetna area.<sup>2</sup>

**Responsive Brief Filed.** On June 19, 1998, the MSB filed a 26-page Responsive Brief with 19 exhibits. Since the June 19, 1998 Brief was supplemented by two additional submissions by the Respondent, that document may be referred to as the ‘original Responsive Brief.’ The MSB was the sole Respondent regarding the Talkeetna incorporation Petition.

The summary portion of the original MSB Brief stated, in part, that “the proposed petition for incorporation of the city of Talkeetna requires supplementation as noted in the borough’s response and can not be granted as proposed . . .” and opined “ . . .the petition as presented does not establish how the commission may grant it in light of the constitution, state statute, and the regulatory factors applicable to the incorporation of a home rule city.”<sup>3</sup> The Respondent addressed several deficiencies in the Petition, including:

- issues relating to maximum local self government with a minimum of local governmental units;
- issues associated with the disruption of an existing borough service area;
- perceived deficiencies in the proposed City budget;
- issues relating to whether the MSB would continue to provide services that the City should deliver after incorporation.

**Petitioners’ Reply Brief Filed.** On August 3, 1998, the Petitioners filed a 4-page Reply Brief pursuant to 3 AAC 110.490 in reply to the Responsive Briefs and comments. A copy of the Reply Brief was served on the MSB on August 3, 1998.

**Supplement to Responsive Brief Filed.** On September 21, 1998, the MSB submitted a 5-page supplement to its June 19, 1998 Responsive Brief, with seven pages of attachments. The LBC extended to the Respondent the opportunity to supplement its Brief because the Petitioners had been allowed an extended period to submit a reply to the original MSB Responsive Brief.

**Petitioners’ Supplemental Reply to Supplemental Responsive Brief Filed.** On October 3, 1998, the Petitioners filed a 2-page reply to the Respondent’s September 21, 1998 supplementary submission.

**First Preliminary Report Issued.** On December 7, 1998, DCED issued a 54-page draft report on the Petition. The deadline for comment upon the draft report was 5:00 p.m., January 7, 1999.

#### **Comments On December 7, 1998, DCED Draft Report.**

Eleven timely letters were submitted to LBC staff regarding the first draft report. Letters were submitted by the following parties:

- Susan Kellard, January 5, 1999;
- Rose M. Jenne, January 5, 1999;
- Roberta Sheldon, Chairperson, Talkeetna Community Council, January 6, 1999;

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<sup>2</sup> One of the two petitions stated “**WE, THE UNDERSIGNED RESIDENTS OF THE COMMUNITY OF TALKEETNA, WISH TO GO ON RECORD AS OPPOSED TO THE INCORPORATION OF THE COMMUNITY OF TALKEETNA. WE DO NOT WANT TO BE INCLUDED.**” The second petition stated “**WE, THE UNDERSIGNED RESIDENTS OF THE AREA SOUTH OF THE RAILROAD CROSSING AT THE ENTRANCE OF THE COMMUNITY OF TALKEETNA, AND CONTINUING SOUTH TO ANSWER CREEK, WISH TO GO ON RECORD AS OPPOSED TO THE INCORPORATION OF THE COMMUNITY OF TALKEETNA. WE DO NOT WANT TO BE INCLUDED.**”

<sup>3</sup> MSB June 19, 1998 Responsive Brief, at 26.

- Art Wettannen, January 6, 1999;
- Robin Jenne & Warren Spaulding, January 6, 1999;
- Phyllis M. Bays, January 6, 1999;
- Ellen M. Wolf, January 7, 1999;
- Raymond MacDonald, January 6, 1999;
- Elaine Tobias, January 6, 1999.
- Brenda Besece & Carl Besece, January 6, 1999;
- MSB, January 7, 1999.

**Second Informational Meeting.** At the request of the Petitioners' Representative, on March 24, 1999, LBC staff conducted a second public informational meeting in Talkeetna. At the March 24 meeting, LBC staff provided information regarding the Petitioners' options to amend or withdraw the incorporation Petition. The meeting was broadcast live on KTNA radio. About thirty people attended the two-hour meeting. At that meeting, there was extensive discussion of 3 AAC 110.540, which provides that:

- A petitioner may amend or withdraw the original petition at any time before the first mailing, publishing, or posting of notice of the Local Boundary Commission's hearing on the petition.
- An amending petition must contain the dated signatures of the same number of voters required for the original petition, and must include the dated signatures of at least a majority of the same voters who signed the original petition.
- A statement withdrawing a petition must contain the dated signatures of at least thirty percent of the voters residing in the area of the proposed change, and must include at least a majority of the same voters who signed the original petition.
- A petitioner may not amend or withdraw the original petition after the first mailing, publishing, or posting of notice of the Local Boundary Commission's hearing on the petition, except upon a clear showing to the Commission that the best interests of the state and of the population affected by the proposed change is best served by allowing the proposed amendment or withdrawal.

**Petitioners Request Delay in Proceedings.** On May 14, 1999, DCED staff received a letter from the Petitioners' Representative requesting until June 30, 1999 to submit an amended petition reflecting actions taken to resolve various concerns about specific aspects of the incorporation Petition expressed by the Respondent MSB and DCED. Such issues related to the following:

- transition of assumption of responsibility for delivery of nonareawide borough powers in the area proposed for incorporation;
- the responsibility for maintenance of the Freedom Hills access road after city incorporation;
- the effect upon service area mill rates if that portion of the Talkeetna Road Service area outside of the proposed City of Talkeetna boundaries were consolidated with another road service area or other road service areas;
- questions relating to the water and sewer service in the Talkeetna core area;
- updated assessed value of real property within the area proposed for incorporation;
- borough collection and rebate of overnight accommodations taxes received from commercial lodging facilities in the area proposed for incorporation.

**Amended Petition Filed.** On October 6, 1999, DCED received an amended petition for incorporation. Specific amendments to the March 25, 1998 Petition included the following:

- offering the voters the option of a 4% seasonal sales tax or 2% year round sales tax;
- deletion of the proposed bed tax;
- provision for a part-time city manager, part-time city clerk/treasurer, full-time public works operator, and seasonal recreation director;
- enlargement of the area proposed for incorporation to include one section (Section 28) to ensure that all existing and potential access routes to the Freedom Hills Subdivision are within the proposed city boundaries;
- provision for city management of the water and sewer system in the core area within eighteen months after incorporation;
- provision for city assumption of solid waste services within eighteen months after incorporation;
- provision of city assumption of library service within eighteen months after incorporation.

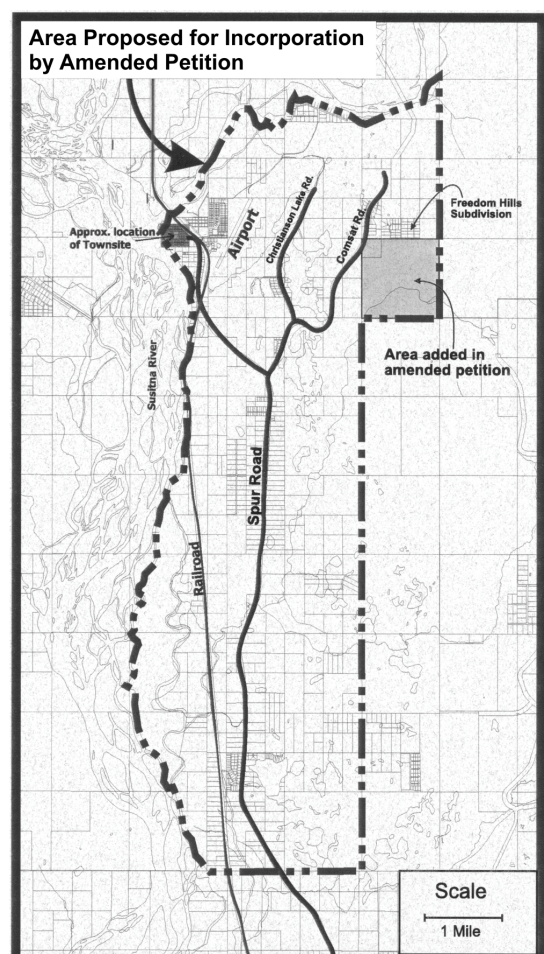
The amended Petition was signed by fifty-three persons. The Division of Elections confirmed that the amended Petition bore sufficient signatures from qualified voters residing in the area proposed for incorporation and sufficient signatures of Talkeetna voters who had signed the original Petition.

**Amended Petition Accepted for Filing.** The amended Petition was accepted for filing on March 17, 2000.

**Notice of Filing of Amended Petition Given.**

Public notice of the filing of the amended Petition was given in accordance with the requirements of 3 AAC 110.450. Specifically, notice was given as follows:

- On March 20, 2000, notice was mailed to 136 interested parties.
- On March 21, 2000, notice of the amended Petition was published in the *Frontiersman*. The paper was requested to publish the notice for three consecutive weeks, as required by 3 AAC 110.450. However, due to an inadvertent failure of *The Frontiersman* to publish the notice of the amended Petition three times as required, publication of the notice of the filing of the amended Petition was repeated.
- On May 10, 2000 notice was prominently posted in 8.5-inch by 11-inch format at four locations in Talkeetna; the Post Office bulletin board, Nagley's Store bulletin board, the Latitude 62 bulletin board, and the Talkeetna library. The notice remained posted at the locations noted for at least fourteen consecutive days from the date of posting.



**AREA SOUGHT FOR INCORPORATION  
BY AMENDED PETITION**

- On May 11, 2000, notice was mailed by DCED to 140 agencies and individuals.
- On May 19, May 26, and June 2, 2000, notice was published in the *Frontiersman* as display advertisements 2-columns wide by 6-inches long.

**Responsive Brief Filed on Amended Petition.** On July 21, 2000, the Respondent MSB filed a 13-page supplement to its Responsive Brief titled *Matanuska-Susitna Borough's Comments to Amended Petition to Incorporate the City of Talkeetna*.

**Comments on Amended Petition.**

Sixteen parties submitted timely comments regarding the filing of the amended Petition:

- Jean Hestnes - April 20, 2000 letter opposing the amended Petition
- Carl A. Hestnes - April 20, 2000 letter opposing the amended Petition
- Edna M. Hestnes - April 20, 2000 letter opposing the amended Petition
- Kristine Hestnes - April 20, 2000 letter opposing the amended Petition
- Eric Hestnes - April 20, 2000 letter opposing the amended Petition
- B. Long - May 8, 2000 letter opposing the amended Petition
- Susan Dolecki- May 15, 2000 letter opposing the amended Petition
- Betty Safford-Kjar - May 15, 2000 letter opposing to the amended Petition
- Doug Smith - June 22, 2000 letter in support of the amended Petition
- Ellen Wolf - June 22, 2000 letter in support of the amended Petition
- Gene Jenne - July 11, 2000 letter opposing the amended Petition
- Constance M. Twigg - July 18, 2000 letter opposing the amended Petition
- Gretchen G. Grover & Scott A. MacDonald - July 20, 2000 letter opposing the amended Petition
- Francis L. Twig - July 21, 2000 letter opposing the amended Petition
- Vye Fuley - July 21, 2000 letter opposing the amended Petition
- MSB – July 21, 2000 supplemental Responsive Brief.

**Petitioners' Reply Filed to Comments on Amended Petition.** On September 15, 2000, the Petitioners' Representatives filed a six-page reply to the MSB submission of July 21, 2000.

**Third Informational Meeting.** On October 11, 2000, LBC staff conducted a third public informational meeting in Talkeetna regarding the proposed incorporation. The meeting began at 6:00 p.m. and concluded at 8:00 p.m. Seventeen people attended the October 11 meeting.

**DCED Provisional Report Regarding Amended Petition Issued.** The 68-page Preliminary Report to the Local Boundary Commission Regarding the Amended Petition to Incorporate the Home Rule City of Talkeetna (Preliminary Report) was issued on April 5, 2001. That document recounted the actions that occurred between the filing of the original incorporation Petition in March 1998 and the publication of DCED's Preliminary Report. The Preliminary Report also described future procedural steps in the Talkeetna city incorporation proceedings.

The Preliminary Report was mailed on April 5, 2001 to the Petitioners' Representative, the Respondent, and 139 individuals and organizations interested in this proceeding.

The LBC Chairman established May 7, 2001 as the deadline for comment on DCED's Preliminary Report regarding the amended Petition. Letters commenting on DCED's Preliminary Report were submitted by:

- B. Long, (two pages, dated April 14, 2001);
- Dennis Ransy, (one page, dated April 15, 2001);
- Zachary Blumner, (one page, dated May 2, 2001);
- Constance Twigg, (three pages, dated May 3, 2001);
- Sandra Garley, Director of Planning, MSB (two pages, dated May 7, 2001);
- William W. Stearns, Owner, D & S Road Services and Talkeetna Refuse (two pages, dated May 7, 2001).

Copies of the comments were provided to the Petitioners' Representative, the MSB, and members of the LBC.

The LBC scheduled a public hearing on the incorporation proposal at the Talkeetna Elementary School on Saturday, August 25, 2001, beginning at 11:00 a.m. Timely notice of the hearing was published, posted and distributed to the Petitioners' Representatives, the Respondent and interested parties.

**Public Hearing.** Commissioners Lynch, Waring, and Wasserman attended the August 25, 2001 public hearing. Comments were received from the Petitioners' Representative, a representative of the Respondent MSB, and members of the public.

Concerns regarding the proposed home rule Charter were raised by Mr. Gerald Lee Sharp, a municipal attorney and recognized authority on home rule charters of Alaska local governments. In response, the Commission encouraged the Petitioners' Representative to confer with Mr. Sharp to address the concerns identified by Mr. Sharp. Mr. Sharp subsequently provided pro bono legal assistance to the Petitioners to address and remedy deficiencies in the Charter.

**Decisional Session.** At the conclusion of the public hearing, the Commission immediately convened a decisional session. After deliberation, the Commission voted to approve the amended Petition, subject to further amendment of the proposed Home Rule Charter by the Petitioners to ensure that the proposed Charter complied with all provisions of law. The motion adopted by the Commission further required that all changes to the proposed Charter be completed and approved by DCED staff no later than October 25, 2001.

**LBC Review and Approval of Charter Amendments.** The Commission met by teleconference at 9:00 a.m., October 23, 2001. At that time the Commission adopted a motion approving the amendments to the proposed Charter.

## SECTION III CONCLUSIONS

***Promotion of Maximum Local Self-Government with a Minimum of Local Governmental Units.*** (Article X, § 1 of Alaska's constitution)

Article X, § 1 of the Constitution of the State of Alaska states that, "The purpose of this article is to provide for maximum local self-government with a minimum of local government units . . .".

The Commission observed that the standard balances the need for accessible and responsive municipal government with the need to avoid proliferation of local governments. The Commission recognized that testimony provided by Talkeetna residents at the public hearing clearly demonstrated that a number of residents perceive a need for a stronger local government and believe that incorporation of the home rule city would promote local self-government.

Talkeetna is already within an organized borough. Therefore city incorporation probably would not have as dramatic an impact as would be the case if Talkeetna were in the unorganized borough. The Commission also notes that the proposed incorporation would result in elimination of two of the Matanuska-Susitna Borough service areas serving Talkeetna, the flood control and water and sewer service areas. Further, incorporation would result in a decrease in the size of Matanuska-Susitna Borough Road Service Area 29. Such reduction in service areas is consistent with satisfaction of the Constitution's requirement for minimization of the number of local governmental units. The development of a community-based local government readily accessible to Talkeetna residents comports with the Constitutional provision calling for maximum local self-government.

The Commission also recognized that other organized boroughs with expansive jurisdictions have combinations of borough and city governments. Such allows boroughs such as the Northwest Arctic Borough, the North Slope Borough and the Kenai Peninsula Borough to effectively address both borough-wide and local issues. Accordingly, the proposed incorporation of the City of Talkeetna is consistent with the framework of municipal government in Alaska.

**Conclusion.** The Commission concludes that incorporation of the City of Talkeetna would be harmonious with the principles of maximum local self-government with a minimum of local governmental units set forth in Article X, § 1 of Alaska's Constitution.

***Inclusion Within the Boundaries of the Proposed City of Talkeetna of All Areas Necessary to Provide the Full Development of Essential City Services on an Efficient and Cost-Effective Basis.*** [AS 29.05.011(a)(2), 3 AAC 110.040(a)]

AS 29.05.011(a)(2) stipulates that the boundaries of a proposed city must include all areas necessary to provide municipal services on an efficient scale. In addition, 3 AAC 110.040(a) provides that, "In accordance with AS 29.05.011, the boundaries of a proposed city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level."

The Commission has examined Talkeetna land use and ownership patterns and notes that the amended Petition adds Section 28 to address and resolve an issue raised when the original petition excluded access to the Freedom Hills subdivision from the proposed boundaries. Substantial acreage suitable for development is also owned in the area by various parties, including the Alaska Railroad, the University of Alaska and Cook Inlet Region. Development of such land holdings in Talkeetna could directly affect the economy and character of the Talkeetna area.

The Commission notes that the population density of the area proposed for incorporation is relatively low, although a high population density is evident in the core area. Further, the assertion by the Petitioners that what happens in the core area directly affects people residing outside the compact core area is valid. The Commission recognizes that existing and anticipated transportation patterns and facilities and recreational visitors to the area contribute to well documented traffic congestion and vehicle parking problems in the core commercial area of Talkeetna.

The Commission recognizes that numerous lakes are situated in the area proposed for incorporation and that this natural feature imposes practical limitations to current and future population density. However, the Commission does not consider that feature to constitute an impediment to full development of essential city services in the area proposed for incorporation. Accordingly, the Commission concludes that there are no notable natural geographic features or environmental factors that constitute an impediment to approval of the proposed city boundaries. Concerns relating to extraterritorial powers of cities relevant to the proposed City of Talkeetna boundaries set forth in the original Petition have been relieved, since the amended Petition includes the area encompassing the Freedom Hills Subdivision access road. The Commission recognized that the boundaries of the area proposed for incorporation generally conform to the boundaries of the Talkeetna Community Council.

**Conclusion.** The proposed City boundaries include all areas necessary to provide municipal services on an efficient and cost-effective basis.

***Limitation of the Area Proposed for Incorporation to the Present Local Community, Plus Reasonably Predictable Growth, Development and Public Safety Needs During the Decade Following the Effective Date of Incorporation.*** [3 AAC 110.040(b)]

3 AAC 110.040(b) stipulates that “The boundaries of the proposed city must include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of incorporation of that city.”

The Commission considers the boundaries proposed by the amended Petition to encompass a relatively large area. However, they are unremarkable when compared with the boundaries of other cities in Alaska with similar populations. The Commission has approved both incorporation petitions and petitions for annexation that resulted in cities with comparable residential densities and areas with modest levels of development.

The Commission construes the standard as requiring city boundaries to include only the area that is apt to be affected and interact with the existing community and development that might reasonably be anticipated during the next decade. Comments to the contrary notwithstanding, the proposed City of Talkeetna boundaries appear to include an area with a community of interest and residents who interact and share concerns.

The Commission also considers it significant that there is a working definition of this community provided by the existing Talkeetna Community Council’s boundaries. The Community Council boundaries have been generally accepted as one practical definition of the geographic scope of the Talkeetna community and provided the basis for the city boundaries proposed by the Petitioners. Although some may argue that the proposed boundaries are too expansive, and others may contend that they are not expansive enough, the Commission considers the proposed boundaries to be reasonable and defensible in the context of the standard.

**Conclusion.** The standard set forth in 3 AAC 110.040(b) is satisfied by the Petition.

***Inclusion within the Proposed City Boundaries of Entire Geographic Regions or Large Uninhabited Areas Not Justified by the Application of Other Incorporation Standards.*** [3 AAC 110.040(c)]

3 AAC 110.040(c) provides that, “The boundaries of the proposed city must not include entire geographical regions or large unpopulated areas, except when such boundaries are justified by the application of the standards in 3 AAC 110.010 - 3 AAC 110.040.”

The Commission noted that portions of the 24-square mile area proposed for incorporation were uninhabited, but that such was largely a consequence of topographical features, such as the numerous lakes in the vicinity.

**Conclusion.** The Commission considers the standard set forth in 3 AAC 110.040(c) to be satisfied.

***The Economy of the Proposed City Must Include the Human and Financial Resources Necessary to Provide Municipal Services on an Efficient, Cost-effective Level.***

[AS 29.05.011(a)(3); 3 AAC 110.020(a)]

AS 29.05.011(a)(3) provides that a community may incorporate as a city only if, “the economy of the community includes the human and financial resources necessary to provide municipal services; in considering the economy of the community, the Local Boundary Commission shall consider property values, economic base, personal income, resource and commercial development, anticipated functions, and the expenses and income of the proposed city, including the ability of the community to generate local revenue.” 3 AAC 110.020(a) provides that, “In accordance with AS 29.05.011, the economy of a proposed city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. . . .”

The Commission expressed agreement with the conclusion of the DCED staff that the anticipated functions of the proposed City of Talkeetna are reasonably consistent with those of a functional municipal government, including water and sewer, solid waste, animal control, library, road maintenance, flood control, and parks and recreation.

The Commission expressed concern that the proposed City of Talkeetna budget is very optimistic and perhaps somewhat unrealistic in terms of anticipated expenses. The reasonably anticipated income projections may also be somewhat optimistic. There are three proposed sources for locally-generated City of Talkeetna revenue. These are property tax, user fees, and sales taxes. There are concerns about whether the proposed city budget adequately reflects the cost of municipal services. Such concerns notwithstanding, the economic base of the proposed city is ample.

The Commission notes the high level of development in the core area and the extensive low density residential development occurring in the remainder of the area proposed for incorporation.

The area proposed for incorporation encompasses a population with employable skilled persons to operate the proposed city. Further, residents exhibit a reasonably predictable level of commitment and interest in sustaining a city. Such has been demonstrated, in part, by the amount of effort that has gone into the consideration of incorporation over several years.

The Commission does not consider concerns about whether the projections for expenses of the proposed city will prove accurate to be overriding. While it is important that a petition for city incorporation provides a plausible picture of what services the proposed city will provide, a budget to support those services, and evidence that there are resources to support the operations of government, approval of a petition does not bind a future city government regarding provision of specific services or appropriation of specific funds. Such determination would be made by the city government established if a city incorporation petition is ultimately approved by voters. The Commission also recognizes a City of Talkeetna would not only have taxing authority, but could receive a higher level of outside funding through grants and municipal entitlement programs.

The Commission notes that Talkeetna’s human and financial resources compare favorably with numerous other communities for which the Commission has approved city incorporation petitions. The community has clear potential to support the delivery of municipal services if there is a commitment in the community to do so.

The Commission determines that, on balance, there is sufficient evidence in the record to support the conclusion that the community has the resources and the capabilities to operate a city government.

**Conclusion.** The economy of the proposed City of Talkeetna includes the human and financial resources necessary to provide municipal services on an efficient, cost-effective level as required under AS 29.05.011(a)(3) and 3 AAC 110.020(a).

***The Population of the Community Must Be Large and Stable Enough to Support City Government.*** [AS 29.05.011(a)(1), AS 29.05.011(a)(4), 3 AAC 110.030]

AS 29.05.011(a)(1) requires that a home rule city must have a population of at least 400. AS 29.05.011(a)(1) requires that the population of a community must be stable enough to support city government. 3 AAC 110.030 provides that, in determining whether a community's population is large and stable enough to support city government, the commission will, in its discretion, consider relevant factors, including

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

In the context of Alaska and the size and distribution of our communities, were Talkeetna to become incorporated it would be above the median population of cities in Alaska. Evidence is that the population in the community has, in recent times at least, has been growing steadily. Thus, although Talkeetna's population was estimated at 758 when the original Petition was filed in 1998, the record suggests that the current population of the area proposed for city incorporation is significantly more numerous than was the case in 1998.

The Commission considers the record to demonstrate that the population of Talkeetna is quite stable. There is a seasonal fluctuation as a consequence of seasonal tourism and related employment but there is clearly a stable year-round population that requires services.

**Conclusion.** The population of the proposed City of Talkeetna is large and stable enough to support city government.

***Demonstrated Need for City Government.*** [AS 29.05.011(a), 3 AAC 110.010]

AS 29.05.011(a) provides that in order to incorporate a city, a community must demonstrate a reasonable need for city government. In this regard, the commission will, in its discretion, consider relevant factors including

- (1) existing or reasonably anticipated social or economic problems;
- (2) existing or reasonably anticipated health, safety and general welfare problems;
- (3) existing or reasonably anticipated economic development; and
- (4) adequacy of existing services.

The Commission discussed the existence of certain issues relevant to the standard, such as the potential service delivery problems resulting from the splitting of Matanuska-Susitna Borough Road Service Area 29 subsequent to city incorporation.

However it seems to be that there is no way to alleviate that problem other than for the Petitioner to completely drop all incorporation plans. On the other hand, incorporation could provide a mechanism whereby other services, such as animal control, could be enhanced because of greater local control of service delivery. Given the population growth in the area, a growing demand for services such as animal control will likely occur in the area proposed for incorporation. Proximity of local government to the recipient of municipal services has the potential to enhance efficiency.

The Commission considers it to be plainly evident that Talkeetna has developed to a point where it is reasonable to allow voters of the community to render a determination at an election regarding whether they are prepared to establish a city government.

**Conclusion.** Talkeetna exhibits a demonstrated need for city government and satisfies the requirements of AS 29.05.011(a) and 3 AAC 110.010.

***Local Service Delivery of by the Matanuska-Susitna Borough or an Existing City.***  
[AS 29.05.021(b), 3 AAC 110.010]

AS 29.05.021(b) provides that a community in an organized borough may not incorporate as a city if the services to be provided by the proposed city can be more reasonably and practicably provided by the borough on an areawide or nonareawide basis. 3 AAC 110.010 provides that a city may not incorporate if essential city services can be provided more efficiently or more effectively by annexation to an existing city.

The Commission notes that it is clearly evident that no existing city government could extend essential city services to Talkeetna through annexation.

The Commission recognizes that Matanuska-Susitna Borough service areas presently provide certain services to the area proposed for incorporation through service areas. Such include road maintenance, sewer and water, and flood control. Other services are provided to the area by the borough on a nonareawide or areawide basis. The amended Petition proposes that delivery of certain nonareawide Borough services, such as library service and animal control, be assumed by the City. The Petition also anticipates delegation to the City of Talkeetna of the delivery of some planning services. Planning services are now provided on an areawide basis by the Borough. The record indicates that planning and development issues are of intense local concern in Talkeetna. Given the considerable distance separating Talkeetna from the Borough administration in Palmer, it is reasonable that delivery of certain nonareawide and areawide Borough services could, at least in theory, be reasonably and practicably delivered to Talkeetna residents by a City government.

**Conclusion.** The standard set forth in AS 29.05.021(b) and 3 AAC 110.010 are satisfied by the Petition.

***Determination of Community.*** [3 AAC 110.920]

3 AAC 110.920 provides that, in determining whether a population comprises a community or social unit, the commission will, in its discretion, consider relevant factors, including whether the people

(1) reside permanently in a close geographical proximity that allows frequent personal contacts and has a population density that is characteristic of neighborhood living;

(2) residing permanently at a location are a discrete and identifiable unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community or social unit if

(1) public access to or the right to reside at, the location of the population is restricted;

(2) the population is contiguous or closely adjacent to a community or social unit and is dependent upon that community or social unit for its existence; or

(3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.

It is clearly evident that there are more than twenty-five permanent residents in the area proposed for incorporation and that Talkeetna residents comprise a social unit. Further, Talkeetna residents reside permanently in a close geographical proximity that allows frequent personal

contacts and Talkeetna exhibits a population density that is characteristic of neighborhood living. Such factors as Talkeetna's school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers are characteristic of a distinct community. Substantial interaction in civic and private business and activities is evident within the area proposed for incorporation.

**Conclusion.** The standard set forth in 3 AAC 110.920 is satisfied by the Talkeetna city incorporation Petition.

**Transition Plan.** [3 AAC 110.900(a) and (c)]

The referenced regulation requires in part:

that a petition for incorporation . . . must include a practical plan in which the municipal government demonstrates its intent and capability to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change; and that a petition for a proposed action by the commission must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, service area or other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, or service area affected by the change, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occurs without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

The Commission notes that serious and relevant issues regarding the transition plan were raised in the record by the Respondent and others. However, the Commission recognizes that 3 AAC 110.900 provides up to two years for transition to be completed and the Petition proposes transition of designated services from the Borough to the City within eighteen months. On balance, flaws identified in the transition plan do not appear to be of sufficient gravity to warrant denial of the Petition.

The amended Petition shows a reasonable commitment by the Petitioners to an orderly transition and is much improved over the original Petition.

The Commission also noted that the Matanuska-Susitna Borough has expressed readiness to assist the new City with transition if the Petition is approved by the Commission and by the Talkeetna voters.

**Conclusion.** The requirements of 3 AAC 110.900(a) and (c) are satisfied by the Petition, albeit marginally.

**Statement of Non-Discrimination.** [3 AAC 110.910]

3 AAC 110.910 prohibits approval of a petition if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

The Commission notes that the record contains no suggestion that civil, political or voting rights of any party would be in any manner diminished if the proposed incorporation of the City of Talkeetna occurs. Incorporation would enhance the voting rights of residents of Talkeetna because incorporation would extend the right to vote in city elections and to seek and hold positions on the city council.

**Conclusion.** The standard set forth in [3 AAC 110.910] is satisfied by the Petition.

***Best Interest Determination.*** [AS 29.05.100(a)]

AS 29.05.100(a) provides that if the Commission determines that the incorporation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and *is in the best interests of the state*, it may accept the petition. Otherwise it shall reject the petition.

The Commission has considered both the interests of residents and other affected local governmental units such as the Matanuska-Susitna Borough. The Commission notes that the proposed city incorporation could potentially have certain negative effects to those served by Road Service Area 29 residing outside the City of Talkeetna. Should incorporation occur, the road service area would be split and an increase in the property tax rate in the remnant portion of the road service area is predicted. However, such does not, in the Commission's view constitute sufficient basis to conclude that the best interests of the state would be significantly threatened by incorporation.

On balance, the opportunity for the Talkeetna community to establish a City government should not be withheld on the basis of concerns regarding bifurcation of Road Service Area #29.

**Conclusion.** Incorporation of the City of Talkeetna would be in the best interest of the state, as required by [AS 29.05.100(a)]

## **SECTION IV ORDER OF THE COMMISSION**

Based on the preceding conclusions, the Local Boundary Commission approves the Petition for incorporation of the home rule City of Talkeetna as amended by the Petitioners on October 6, 1999 as noted in Section II of this Decisional Statement and as further amended by the Local Boundary Commission with respect to the home rule Charter on October 24, 2001.

The Commission directs the Department of Community and Economic Development to notify the Director of the Division of Elections pursuant to AS 29.05.110. The following propositions shall be placed on the ballot with particular wording of the propositions to be at the discretion of the Director of the Division of Elections.

**Proposition Number One:** Shall Talkeetna be incorporated as a Home Rule City?

**Proposition Number Two:** Shall the City of Talkeetna be authorized to levy the particular sales tax outlined in Proposition Number Three that receives the most votes cast at this election? (Note: Approval of this proposition by a majority of the votes cast on this proposition is required as a condition of incorporation.)

**Proposition Number Three:** If the City of Talkeetna is authorized to levy a sales tax pursuant to Proposition Number Two, which of the following sales taxes shall be levied? (Choose One)

- (a) A four percent sales tax to be levied from May 1 to September 30 annually, with the limitation that the tax not exceed \$10 on any single sales transaction.
- (b) A two percent sales tax to be levied year-round, with the limitation that the tax not exceed \$10 on any single sales transaction.

In addition, the ballot shall provide for election of a Mayor and six City Council members.

Legal description of the proposed jurisdictional boundaries of the City of Talkeetna.

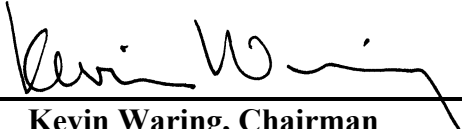
Township	Range	Section
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All within the Seward Meridian, Talkeetna Recording District.

25 NORTH	4 WEST	ALL OF 5 THROUGH 8, 17 THROUGH 20, AND 29 THROUGH 32.
25 NORTH	5 WEST	ALL OF 1, 12,13, 24, 25 AND 36 LYING EAST OF THE ORDINARY HIGH WATER LINE OF THE SUSITNA RIVER.
26 NORTH	4 WEST	ALL OF 16 THROUGH 19 LYING SOUTHEAST OF THE ORDINARY HIGH WATER LINE OF THE TALKEETNA RIVER; AND ALL OF 20, 21, AND 28 THROUGH 32.
26 NORTH	5 WEST	ALL OF 24, 25, AND 36 LYING EAST OF THE ORDINARY HIGH WATER LINE OF THE SUSITNA RIVER.

**APPROVED IN WRITING THIS 15th DAY OF NOVEMBER, 2001**

**LOCAL BOUNDARY COMMISSION**

BY:   
Kevin Waring, Chairman

ATTEST:   
Dan Bockhorst, Staff

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**RECONSIDERATION BY THE COMMISSION**

Within 20 days after this decision becomes final under provisions of 3 AAC 110.570(g), a person may file a request for reconsideration of the decision. The request must describe in detail the facts and analysis that support the request for reconsideration. If the Commission has taken no action on a request for reconsideration within 30 days after the decision becomes final under provisions of 3 AAC 110.570(g), the request is automatically denied. If the Commission grants a request for reconsideration, the Petitioners or any respondents opposing the reconsideration will be allotted 10 days from the date the request for reconsideration is granted to file a responsive brief describing in detail the facts and analyses that support or oppose the request for reconsideration.

**JUDICIAL APPEAL**

**Judicial Appeal.** A decision of the Commission may be appealed to Superior Court. The appeal must be made in accordance with Alaska Rules of Appellate Procedure, Rule 601 et seq. An appeal to the Superior Court must be made within thirty days after the last day on which reconsideration can be ordered.

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